

OMAO Drug and Alcohol Policies and Procedures. Rev 1.  
May 17, 2000

**I. Purpose.** The purpose of this Office of Marine & Aviation (OMAO) Procedure is to:

A. Promulgate the OMAO policy regarding the possession or use of controlled substances aboard NOAA vessels;

B. Establish OMAO policy and procedures with regard to performance and conduct issues related to drug and alcohol use;

C. Define OMAO management and supervisor responsibilities for issues related to drug and alcohol use; and

D. Define procedures applicable to drug and alcohol situations if encountered on NOAA Vessels or shore facilities.

**II. Scope.** This instruction pertains to all NOAA commissioned officers, wage marine, wage grade, and general schedule employees including excepted service, assigned to any NOAA Vessel or OMAO shore facility. NOAA employees, other federal employees, and non-federal civilian or foreign personnel embarked on a NOAA Vessel and mission are subject to this instruction.

Organizations providing support to OMAO, and ONCO's Regional Director of Health Services (RDHS) include: Servicing Human Resource Offices (SHRO); Office of Human Resource Management (OHRM), and the Department of Commerce's Employee Assistance Program (DOC-EAP).

**III. Policy.** The unauthorized possession or use of controlled substances<sup>1</sup> violates Federal law. All Commanding Officers/Masters shall prohibit any use and/or possession of illegal drugs<sup>12</sup> aboard their vessels. All employees who violate Federal law shall be referred to appropriate law enforcement authorities and be vigorously disciplined in accordance with NOAA and other Federal regulations. Commanding Officers/Masters must regard the use or possession of alcoholic beverages as a disciplinary matter and proceed accordingly. These policies are addressed in detail in the Memorandum entitled Policy on Use of Illegal Drugs and Alcohol, dated May 28, 1998, and in NC Instruction 6000 NOAA Fleet Medical Policy Manual.

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<sup>1</sup>Defined in Section VII.

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OMAO promotes safety and integrity of NOAA ships, shore facilities and mission support; efficient and safe performance of assigned duties; personal dependability, and professional behavior, performance and conduct. OMAO requires all Vessel and Marine Center elements to consult with and interact with their SHRO and Marine Center Director in conjunction with all aspects of this instruction.

The following policies regarding drug and alcohol are applicable:

A. An employee whose job performance and/or conduct is impaired by the use of alcohol or the legal use of other substances, will receive the same consideration and offer of assistance that is extended to employees having any other illness which contributes to poor performance or misconduct. Sick leave, annual leave, and leave without pay may be granted for the purpose of treatment and/or rehabilitation. Employees seeking leave will be required to produce medical documentation of a diagnosis and recommended treatment from their health care provider for review by the RDHS and/or the SHRO.

B. OMAO does not condone misconduct or unsatisfactory performance. When misconduct and/or unsatisfactory performance is an issue, the supervisor is to evaluate an employee accordingly and initiate appropriate corrective or disciplinary action.

C. OMAO does not condone activities which are contrary to law or regulations, or federal policy. When potentially harmful conduct is directed toward the person or property of others, immediate action shall be taken to restrain the offender and to initiate law enforcement and disciplinary/corrective actions.

D. Employees who feel they may have a problem with alcohol or other drugs are encouraged to seek counseling and information on a strictly confidential basis through the DOC-EAP and their SHRO.

E. An employee's retention on the job or promotional opportunity shall not be jeopardized by a request for counseling or referral assistance.

#### **IV. Responsibilities**

A. **OMAO**. OMAO is responsible for policy, overall program development, and periodic review and evaluation of the effectiveness of the policy, responsibilities and procedures

promulgated by this Instruction.

B. **Marine Center Director**. The Marine Center Director is responsible for:

1. Providing supervisors (ship and shore) with training, as part of the annual Marine Center training plan.
2. Arranging for employee education programs.
3. Initiating financial requests to ONCO for funds to finance educational materials and training activities.
4. Distributing alcohol and drug abuse prevention and control materials provided by OMAO, the SHRO, or DOC-EAP.
5. Maintaining supervisory training and employee educational activities records:
6. Providing recommendations for program improvements or modifications.

C. **Regional Director, Health Services**. The Regional Director of Health Services is responsible for:

1. Providing liaison with and referral to the DOC-EAP for effected employees. The OMAO wage marine health benefit program provides coverage for most substance abuse treatment programs per NC Instruction 6000.
2. Maintaining records and assuring their confidentiality. Medical and counseling records of employees who seek assistance will be maintained per NC Instruction 6000 and the Privacy Act.
3. Providing materials, guidance, and support to Marine Center elements.

D. **Commanding Officers/Masters and Marine Center Division Chiefs**. Commanding Officers/Masters and Division Chiefs are responsible for:

1. Consulting with supervisors and the SHRO on employee management, job performance and/or conduct problems that may be caused by alcohol or drug use.
2. Advising supervisors of appropriate steps to take for resolution of employee performance and/or conduct problems in

conjunction with the SHRO.

3. Referring employees who request assistance for drug or alcohol problems to appropriate treatment through the RDHS.

4. Conducting an employee education program required by the Marine Center Director.

E. **Supervisors**. Supervisors generally should not ask employees whether they are having a problem with drugs or alcohol. Rather, inquiries should address the employee's performance and/or conduct. Supervisors are responsible for:

1. Being alert to changes in the work performance and/or behavior of employees.

2. Informing employees of unsatisfactory work performance and documenting specific instances where an employee's work performance, behavior, or attendance fails to meet minimum standards or where the employee's pattern of performance appears to be deteriorating.

3. Consulting with the commanding officer/master or the marine center division chief on how to correct an employee's performance and/or conduct problem.

4. Conducting an employee interview focusing on poor work performance and/or conduct and informing the employee of available counseling services in the event that poor performance is caused by any personal or health problems. Supervisors are responsible for documenting the interview.

When a supervisor becomes aware that an employee's use of drugs or alcohol may be contributing to a performance or conduct deficiency, immediately contact the SHRO and inform the employee of DOC-EAP.

If an employee fails to participate in any rehabilitative program, or having participated, the employee fails to bring conduct or performance up to satisfactory level, the supervisor shall evaluate the employee accordingly and initiate an appropriate performance-based or adverse action with the SHRO.

When a supervisor has reason to believe that an employee is involved in criminal activity directed toward others (e.g., selling or transporting drugs, or stealing to support a chemical dependency), the facts known should be reported to the Commanding Officer/Master or the Division Chief and Marine Center Director

through the chain of command, followed by a report to the appropriate law enforcement office.

The law does not require ONCO to provide a reasonable accommodation to an employee whose poor performance and/or misconduct is caused by current illegal drug use. 42 U.S.C. § 12114; 29 C.F.R. § 1614.203(h).

However, the Department of Commerce Plan For A Drug Free Workplace, contains a safe harbor provision for employees who satisfy certain criteria. Section VIII, Finding of Drug Use and Disciplinary Consequences, subsection F, Voluntary Referral, provides that:

The Department will not initiate disciplinary action against any employee who meets all three of the following conditions:

- a. Voluntarily identifies him/herself as a user of illegal drugs prior to being identified through other means.
- b. Obtains counseling or rehabilitation through DOC-EAP; and
- c. Thereafter refrains from using illegal drugs.

The Department's Plan does not require OMAO to extend safe harbor to employees on an appointment that does not provide sufficient time to complete a rehabilitation program plus the one year follow-up testing period, or to employees serving on a probationary or trial period.

When employee counseling or treatment efforts are unsuccessful, supervisor's records of unsatisfactory work performance or conduct and supervisor's efforts to bring about improvement may be disclosed to the extent required to explain fully any proposed administrative action.

**V. Procedures.** OMAO requires that appropriate measures are taken to eliminate drug or alcohol use or possession aboard NOAA Vessels and shore facilities. OMAO requires that employee performance and/or conduct issues be addressed with assistance from SHOR, DOC-EAP, OHRM, and the Marine Center be informed of all actions.

OMAO Procedures have been developed for:

- A. Education
- B. Search and Seizure

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- C. Identification of Controlled Substances and Confiscation
- D. Reasonable Suspicion Drug Testing
- E. Disciplinary Action

A. Education Procedures

An ongoing educational program includes:

1. A briefing of all personnel prior to, or as soon as possible after the vessel's deployment, which reiterates OMAO policy prohibiting the possession of controlled substances aboard NOAA Vessels.
2. Supervisor training for OMAO supervisors promoting the understand of the nature and effect of alcohol and drug use on the mission of OMAO and OMAO's policy on alcohol, drug use, and employee assistance.
3. Information which informs employees of the nature and effect of drug and alcohol use, as well as the availability of counseling services such as the Department of Commerce's Employee Assistance Program (DOC-EAP) will be made available. The DOC-EAP provides guidance and counseling to employees referred by management. The DOC-EAP also provides Commanding Officers/Masters and Division Chiefs with initial assistance in dealing with suspected abuse of drugs or alcohol by employees.
4. Instruction to all licensed personnel that a civilian court conviction for a controlled substance offense serves as a basis for revocation of Coast Guard licenses, certification, and documents. See 46 U.S.C. § 7704(b)(1994). Similarly, commissioned officers will be subject to revocation of their commissions. See Chapter 7, NOAA Corps Regulations § 07402.

The education program may also include:

5. Seminars presented by DOC-EAP personnel;
6. Seminars presented by RDHS personnel;
7. Drug abuse video tapes; and,
8. Training visits by Federal or local law enforcement personnel.

B. Search and Seizure Procedures

The reasonable suspicion of specific drug use or possession

requires rapid and thorough action. The Commanding Officer/Master must take whatever reasonable steps are necessary, in a timely manner, to confiscate and prohibit the use of controlled substances, based on vessel location, then notify the cognizant Marine Center (and port captain if applicable).

1. Domestic port: Immediately request that law enforcement personnel be invited aboard to assist in determining the merit of the suspicion. Law enforcement agencies should be contacted in the order listed:

- a. Drug Enforcement Administration
- b. U.S. Customs Service
- c. Food and Drug Administration
- d. U.S. Marshall's Service
- e. State police
- f. Local police

2. Moored at U.S. military base: Request the assistance of the military police or appropriate base authority.

3. Ship at sea: Search the areas under suspicion when probable cause exists. Conduct the search with a designated representative of the Commanding Officer/Master. Where appropriate, cognizant department heads should also be present. In all cases, the search should be limited to the person(s) under suspicion and to the area(s) where the controlled substance is believed to be kept. Any suspected controlled substances should be confiscated immediately and, if possible, identified. It is mandatory that a chain of custody of the suspect material be maintained and that as few people as possible handle the material. Complete records of the search and all subsequent occurrences must also be maintained.

4. Moored at foreign port: Treat the situation as if the ship were at sea and utilize onboard resources and procedures. Assistance from local authorities should be requested only after consultation with the American Consulate or Embassy with jurisdiction for the port.

5. All searches and confiscations of controlled substances shall be entered in the deck log at the time of occurrence.

### **C. Identification of Controlled Substances and Confiscation Procedures**

1. Commanding Officers/Masters must have the means to verify the content of suspect material, in the absence of shore side law

enforcement personnel, to efficiently implement disciplinary or criminal proceedings. Marine Centers have been provided with product descriptions and ordering information from the GSA Schedule to procure Narcotics Identification Kits. These kits are routinely used in the law enforcement community and enable field units to rapidly identify commonly abused drugs. The results of these tests may be used as evidence in administrative disciplinary proceedings.

2. It is crucial that all confiscated substances are kept in a secure location. The Commanding Officer/Master must maintain a log which documents the time of confiscation, as well as the identity of all personnel with access to or custody of the substance from the moment of confiscation until it is released to law enforcement personnel. Criminal prosecution may require more formal laboratory identification of the suspect material.

3. It is mandatory that law enforcement officials from the prioritized listing in the Search and Seizure Procedure be notified immediately of the confiscation of controlled substances. These officials may choose to assume jurisdiction or may refer it back to the Commanding Officer/Master. Regardless of whether jurisdiction is assumed, the Commanding Officer/Master must initiate disciplinary or corrective action and maintain close liaison, through the Marine Center, with the SHRO to ensure applicable procedures and regulations are properly followed. Upon return to port, confiscated material shall be turned over to the Marine Center or law enforcement authorities.

#### D. Reasonable Suspicion Drug Testing Procedures

Pursuant to ***Guidelines For Approval Of Reasonable Suspicion Testing***, issued August 8, 1995, the Marine Center Director has the delegated authority to authorize a reasonable suspicion drug test under the following circumstances:

1. Suspected Use: Authorization for reasonable suspicion testing for suspected use of an illegal substance should be based on the guidelines contained in DEPARTMENT OF COMMERCE DRUG-FREE WORKPLACE DRUG TESTING GUIDE (the guide), May 1990, Chapter III, REASONABLE SUSPICION DRUG TESTING.

2. Suspected Possession: The delegation of authority for testing does not cover reasonable suspicion drug testing based SOLELY on suspected possession of an illegal substance. However, authority does permit authorization of a reasonable suspicions drug test if the Marine Center Director, or a Commanding Office/

Master has direct knowledge of possession of an illegal substance by an employee.

3. Need for Prior Concurrence:

a. Concurrence by Office of Human Resource Management (OHRM) required by Section I.A.1. of the Guide is waived by the delegation of authority.

b. Prior concurrence by Department of Commerce Office of General Counsel (OGC) per Chapter III, Section I.A.1. of the Guide has not been waived. Direct communication with OGC counsel, either at work or at home after hours is authorized by the delegated authority. OGC contacts, to be made in the following order, are:

Thomas O. Magnetti (w) (202) 482-5017  
(h) (202) 722-4118  
Kathleen J. Taylor (w) (202) 482-5017  
(h) (301) 564-0808

**Please refer to the *Guidelines For Approval Of Reasonable Suspicion Testing*, as well as the DEPARTMENT OF COMMERCE DRUG-FREE WORKPLACE DRUG TESTING GUIDE, May 1990, Chapter III, REASONABLE SUSPICION DRUG TESTING for more detailed instructions.**

E. Disciplinary Action Procedures

1. Violation of the Controlled Substances Act [21 U.S.C. § 812 et seq.] and/or Federal regulations concerning drug abuse aboard vessels is a matter relating to the safety of navigation. The Commanding Officer/Master is the appropriate authority and shall initiate disciplinary or corrective action. In the case of non-Federal civilian or foreign personnel, the evidence should be referred to Federal authorities with concurrent notification to the employing organization.

2. The SHRO should be consulted as follows:

a. Prior to the initiation of disciplinary or corrective action for drug or alcohol use related offenses, or at the first opportunity when prior consultation is not possible,.

b. In cases where an individual cannot be relied upon to perform duties without endangering self, other employees, or the ship, the employee shall be removed from duty and restrained if necessary. Disposition of the matter shall be discussed as soon

as possible.

c. In the event law enforcement authorities take jurisdiction of the case, guidance for continuing or holding in abeyance the administrative action will be provided.

3. Where regulations provide a range of penalties, extenuating or mitigating circumstances, as well as the facts of each case, shall be considered before recommending a penalty. However, Commanding Officers/Masters are reminded that offenses involving the safety of navigation are considered to be of the most serious nature and penalties should be levied accordingly.

4. Disciplinary action shall be applied progressively where appropriate, and consistently in accordance with: The Department of Commerce Plan For A Drug Free Workplace; The NOAA Personnel Handbook for Vessel Employees, Chapter 14; The NOAA Performance System Administrative Order, 5 C.F.R. § 432; and the NOAA Personnel Handbook; any applicable collective bargaining agreements.

5. Thorough supporting documentation is essential to the successful implementation of the appropriate action.

## **VI. References**

A. For legal authorities relating to this Instruction, refer to: 42 U.S.C. § 12114; 5 C.F.R. § 792 et seq.; 5 C.F.R. § 432 et seq.; 29 C.F.R. § 1614.203(h); the Department of Commerce Drug Free Workplace Program Plan and Guide, and the NOAA Personnel Handbook for Vessel Employees, Chapter 14.

B. For additional guidance, refer to the Policy Statement on Use of Illegal Drugs and Alcohol issued by Rear Admiral John C. Albright, Director, Atlantic and Pacific Marine Centers, on May 28, 1998, and NC Instruction 6000, NOAA Fleet Medical Policy Manual, Chapters 2.4; 3; 5.3(g); and 9.5.

C. For information regarding counseling services, contact the SHRO, and/or the Department of Commerce Employee Assistance Program (DOC-EAP), administered by the Occupational Health Services/Managed Health Network, Inc. Employee referral number: (800)227-1060; Management consultation number: (415) 491-7211.

## **VII. Definitions**

The term controlled substance means a drug or other substance as

defined in the Controlled Substance Act, 21 U.S.C. § 801 et seq., (1994); see also Comprehensive Drug Abuse Act of 1970, 21 C.F.R. § 1300 et seq. (1997). The list of controlled substances appears at 21 U.S.C. § 812.

The term illegal use of drugs means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act [21 U.S.C. § 812 et seq.], but does not include the use of a drug taken under supervision by a licensed health care professional. See 29 C.F.R. § 1614.203(h).

**VIII. Effective Date.** This instruction is effective upon receipt.

**IX. Affect on Other Instructions.** This instruction supersedes OMO Instruction 5355.0 dated August 16, 1985 and OMO Instruction 6001 dated February 13, 1987.

**X. Distribution.** NC, NCx2, NCx4, NC23, NC3, AOC, AMC, PMC, CPC, WC, EC.

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Número: OMAO 03

Dueño: FIELDS

AFA: FIELDS

## **Historial de revisiones**

Revision	Status	Released By	Released On
2.0	Current	Evelyn J. Fields, Rear Admiral, NOAA	10/17/2002 9:36:42 AM
1.0	Superseded	Evelyn J. Fields, Rear Admiral, NOAA	12/20/2000 3:31:39 PM